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August 14, 2014

Via ECF

The Honorable Katherine Polk Failla,
United States District Judge,
United States Southern District of New York,
Thurgood Marshall United States Courthouse,
40 Foley Square,
New York, NY 10007.

Re: *The New York Bankers Association, Inc. v. The City of New York et al.*,
No. 13-CV-7212-KPF (S.D.N.Y.)

Dear Judge Failla:

On behalf of Plaintiff The New York Bankers Association, Inc. (“NYBA”), I write to request that the Court enter into the record, in connection with NYBA’s pending Motion for Summary Judgment (ECF No. 19), two documents recently published by the New York City (“City”) Department of Finance: (i) Request for Proposals: Responsible Banking Bill Services (“RFP”), published on July 21, 2014 (Exhibit A hereto); and (ii) Report on the Fiscal Year 2015 Executive Budget (“2015 Budget”), published on June 6, 2014 (Exhibit B hereto).¹ The Court has scheduled oral argument on NYBA’s Motion for Summary Judgment for August 19 at 2:00 p.m.

In terms of the City’s timing in implementing Local Law 38, the RFP confirms that the Community Investment Advisory Board (“CIAB”) intends: (1) to complete the process of collecting data concerning the activities of the City’s depository banks by the end of October 2014 (Ex. A at 13); (2) to post that data on the Department of Finance’s website by November 2014 (*id.* at 10 n.4); (3) to issue its first Annual

¹ The Court may take judicial notice of these City documents, which “are matters of public record and therefore are the types of materials of which a court may take judicial notice.” *Schubert v. City of Rye*, 775 F. Supp. 2d 689, 695-96 n.3 (S.D.N.Y. 2011) (Karas, J.) (taking judicial notice of City Council meeting minutes); *see also Lindsay v. Morgan Stanley*, 592 F.3d 347, 354 n.5 (2d Cir. 2010) (taking judicial notice “of the full contents of the SEC’s filings relating to this enforcement action because . . . these proceedings are a matter of public record”).

The Honorable Katherine Polk Failla

-2-

Report in March 2015 (*id.* at 5, 13), identifying “any [depository] [b]ank’s failure to provide information requested in writing” (*id.* at 10); and (4) to complete its Needs Assessment, which “[a]ssess[es] the credit, financial and banking services needs throughout the City with a particular emphasis on low and moderate income individuals and communities” (*id.* at 9) by March 2015 (*id.* at 5, 13).

In light of the City’s plan to implement Local Law 38 shortly, the Department of Finance has determined that its “[c]urrent staff capacity cannot handle the additional requirements imposed by [Local Law 38].” (Ex. B at 2.) As a result, the City’s 2015 Budget provides for the hiring of two staff members (at a cost of \$140,000), who will oversee the expenditure “of \$350,000 for vendor services related to the production of analytical reports as required under Local Law 38.” (*Id.*)

Moreover, the City’s RFP confirms that the CIAB will:

- “[e]stablish[] benchmarks, best practices and recommendations for meeting the banking needs [of the City’s residents]” that “represent a wide range of banking metrics that provides an understanding of the City’s banking needs” in sufficient detail to “allow for the examination of any trends” at the “City, Borough, and Neighborhood levels” (Ex. A at 9);
- develop an “evaluation system[] which scores and ranks each individual [depository bank] in categories of interest to the City,” including “identify[ing] areas of past improvement and areas where further improvement remains necessary” (*id.* at 10); and
- issue an Annual Report that “[a]ddresses how each [depository] [b]ank . . . is meeting community needs, including an evaluation of how each bank performed relative to the benchmarks and best practices” (*id.*).

Thank you for your consideration.

Respectfully,



Robert J. Giuffra, Jr.

cc: Counsel of Record